

IN THE COURT OF PRL. SESSIONS JUDGE AT BALLARI.

PRESENT: SHRI.BIRADAR B.C.

B.A., LL.B. (Spl),

Prl. Sessions Judge, Ballari.

DATED, THIS THE **11TH DAY OF JANUARY 2018.**

CRL.MISC.No.01 OF 2018.

**PETITIONER/
ACCUSED.**

Ismail, S/o Kasimsab, 38 years, Muslim,
Driver of Tractor & Trailer Registration
No.KA 36/T 7955 & 7956, R/o Near
Basavanna Temple, Raravi Village,
Siruguppa Taluk, Ballari District.

(By Advocate Sri.K.Ramanna).

//Vs//

RESPONDENT

The State by Sub-Inspector of Police,
Siruguppa Police Station, Siruguppa,
Siruguppa Taluk, Ballari District.

(By Learned Public Prosecutor).

ORDER

Petitioner who is accused in Crime No.325/2017 of the respondent police is seeking regular bail U/Sec.439 of Cr.P.C. in the event of his arrest by the respondent police. It is the contention of petitioner that he is innocent, not committed offences and he is falsely implicated in the case. There is no sufficient material evidence for the offence alleged against him. He is only earning member in the family, as such lives of his family members are going to be effected. The offences are not punishable with death or imprisonment for life. He has got permanent address. He is ready to give surety, execute bonds and obey the conditions of the court for grant of bail. On the said grounds, it is requested to allow the petition.

2. Learned Public Prosecutor has filed objections and denied the reasons stated in the bail petition. It is contended that there is a prima-facie case and evidence against the petitioner for the offences punishable U/Secs.21 (1) of MMRD Act & S.379 of IPC. So, it is contended that if petitioner is released on bail he is going to commit similar type of offence in future. He is going to tamper the evidence of the prosecution by threatening or inducing to witnesses. As case is under investigation, further investigation is going to be hampered. If he is released on bail, he is going to abscond and not appearing before the court on hearing dates. He has caused loss to the Government by committing theft of sand, which is the Government property. On the said grounds, it is requested for dismissal of the petition.

3. Now I have to decide the following point is that:

“Whether there are sufficient grounds for grant of regular bail to the petitioner/accused?”

4. I have heard the arguments. My finding on the above point is held in the affirmative, for the following:

REASONS

5. The case is registered on the basis of complaint lodged by PSI of the complainant police station.

6. The brief story of the complaint is that on 30.12.2017 at about 2.00 a.m., near Thayamma Temple, Siruguppa, Siruguppa Taluk, Ballari District, the complaint found accused-petitioner illegally transporting of sand worth Rs.1,000/- in a Tractor & Trailer without having any valid licence or permit and without paying royalty to the Government by committing theft. Thus, complainant arrested the accused, seized the said vehicle along

with sand and registered a case against the petitioner-accused who is driver of the vehicle involved in this case, for the offences punishable U/S.21 (1) of MMRD Act 1957 r/w S.379 of IPC.

7. After perusal of the story in the complaint, it would show that the offences are not severe and grievous in nature and they are not punishable with imprisonment for life. Only during trial, prosecution is required to prove its case of recovery of the sand from the possession of the petitioner. Till proof of charge during trial, petitioner is presumed to be innocent. Hence his pre-trial detention should not be with a view to give punishment. As already the investigation is completed, the presence of the petitioner/accused is no more required for investigation purposes.

8. If a responsible person is taken as surety, the presence of the petitioners on hearing dates before the Court could be secured. Therefore, there is no apprehension or chances of petitioners fleeing away from the justice. If conditions are imposed directing them to not to tamper the evidence of the prosecution, no any loss or harm would occur to the prosecution case. If conditions are imposed they are not involving in similar type of offences in future. In the result, following:

ORDER

The bail petition filed on behalf of petitioner-accused U/Sec.439 of Cr.P.C. is hereby allowed.

Petitioner is ordered to be enlarged on bail in the above crime subject to following conditions.

1. Petitioner-accused shall execute personal bond for **Rs.25,000/- with a surety** for like-sum to the satisfaction of jurisdictional Magistrate.
2. Petitioner-accused and surety should possess their address proofs and Aadhar Cards and produce it before the committal court.
3. Surety of the petitioner-accused should produce the property records of immovable property in his name.
4. The petitioner-accused shall not involve in similar type of offence and to be careful and keep up good behaviour till disposal of this case.
5. Petitioner-accused shall not indulge in any activities of threatening or inducing witnesses and he shall appear on each and every date of hearing before the court till disposal of this case.

(Dictated to the Stenographer directly on computer, corrected, signed and then pronounced by me in the open court dated this the **11th day of January 2018**).

(Biradar B.C.)

Prl. Sessions Judge, Ballari.